

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

DUSTIN BURNIKEL,

Plaintiff,

v.

MICHAEL FONG, individually and in his
official capacity as a law enforcement officer
with the Des Moines Police Department;
GREG WESSELS, individually and in his
official capacity as a law enforcement officer
with the Des Moines Police Department; and the
CITY OF DES MOINES, IOWA,

Defendants.

4:15-cv-00050-RGE-HCA

VERDICT FORM

**NOTE: TO COMPLETE THE VERDICT FORM, INDICATE YOUR RESPONSE
BY MARKING AN "X" IN THE APPLICABLE SPACE.**

Verdict No. 1: Excessive Force (Defendant Fong)

On Plaintiff Dustin Burnikel's Excessive Use of Force claim against Defendant Michael Fong, as submitted in Final Jury Instruction 7, we find in favor of

 X Plaintiff Dustin Burnikel or Defendant Michael Fong

Question 1A: Callous Indifference

If you found for Defendant Michael Fong in Verdict No. 1, proceed to Verdict No. 2 and do not answer this question. Answer this question only if you found for Plaintiff Dustin Burnikel in Verdict No. 1.

Do you find the conduct of Defendant Michael Fong in using excessive force constituted callous indifference to the rights of Plaintiff Dustin Burnikel?

 X YES or NO

Verdict No. 2: Excessive Force (Defendant Wessels)

On Plaintiff Dustin Burnikel's Excessive Use of Force claim against Defendant Greg Wessels, as submitted in Final Jury Instruction 8, we find in favor of

 X Plaintiff Dustin Burnikel or Defendant Greg Wessels

Question 2A: Callous Indifference

If you found for Defendant Greg Wessels in Verdict No. 2, proceed to Verdict No. 3 and do not answer this question. Answer this question only if you found for Plaintiff Dustin Burnikel in Verdict No. 2.

Do you find the conduct of Defendant Greg Wessels in using excessive force constituted callous indifference to the rights of Plaintiff Dustin Burnikel?

 X YES or NO

Verdict No. 3: Battery (Defendant Fong)

On Plaintiff Dustin Burnikel's Battery claim against Defendant Michael Fong, as submitted in Final Jury Instruction 9, we find in favor of

 X Plaintiff Dustin Burnikel or Defendant Michael Fong

Question No. 3A: Willful and Wanton Disregard

If you found for Defendant Michael Fong in Verdict No. 3, proceed to Verdict No. 4 and do not answer this question. Answer this question only if you found for Plaintiff Dustin Burnikel in Verdict No. 3.

Do you find by a preponderance of clear, convincing, and satisfactory evidence the conduct of Defendant Michael Fong in committing battery constituted willful and wanton disregard for the rights or safety of Plaintiff Dustin Burnikel?

 YES or X NO

Verdict No. 4: Battery (Defendant Wessels)

On Plaintiff Dustin Burnikel's Battery claim against Defendant Greg Wessels, as submitted in Final Jury Instruction 10, we find in favor of

 X Plaintiff Dustin Burnikel or Defendant Greg Wessels

Question No. 4A: Willful and Wanton Disregard

If you found for Defendant Greg Wessels in Verdict No. 4, proceed to Verdict No. 5 and do not answer this question. Answer this question only if you found for Plaintiff Dustin Burnikel in Verdict No. 4.

Do you find by a preponderance of clear, convincing, and satisfactory evidence the conduct of Defendant Greg Wessels in committing battery constituted willful and wanton disregard for the rights or safety of Plaintiff Dustin Burnikel?

_____ YES or X NO

Verdict No. 5: Fourth Amendment False Arrest (Defendant Fong)

On Plaintiff Dustin Burnikel's Fourth Amendment False Arrest claim against Defendant Michael Fong, as submitted in Final Jury Instruction 14, we find in favor of

_____ Plaintiff Dustin Burnikel or X Defendant Michael Fong

Verdict No. 6: Fourth Amendment False Arrest (Defendant Wessels)

On Plaintiff Dustin Burnikel's Fourth Amendment False Arrest claim against Defendant Greg Wessels, as submitted in Final Jury Instruction 15, we find in favor of

_____ Plaintiff Dustin Burnikel or X Defendant Greg Wessels

Verdict No. 7: Malicious Prosecution (Defendant Fong)

On Plaintiff Dustin Burnikel's Malicious Prosecution claim against Defendant Michael Fong, as submitted in Final Jury Instruction 24, we find in favor of

_____ Plaintiff Dustin Burnikel or X Defendant Michael Fong

Verdict No. 8: Malicious Prosecution (Defendant Wessels)

On Plaintiff Dustin Burnikel's Malicious Prosecution claim against Defendant Greg Wessels, as submitted in Final Jury Instruction 25, we find in favor of

_____ Plaintiff Dustin Burnikel or X Defendant Greg Wessels

Verdict No. 9: Iowa False Arrest (Defendant Fong)

On Plaintiff Dustin Burnikel's Iowa False Arrest claim against Defendant Michael Fong, as submitted in Final Jury Instruction 18, we find in favor of

_____ Plaintiff Dustin Burnikel or X Defendant Michael Fong

Verdict No. 10: Iowa False Arrest (Defendant Wessels)

On Plaintiff Dustin Burnikel's Iowa False Arrest claim against Defendant Greg Wessels, as submitted in Final Jury Instruction 19, we find in favor of

_____ Plaintiff Dustin Burnikel or X Defendant Greg Wessels

NOTE: IF ANY OF THE ABOVE VERDICTS IS IN FAVOR OF PLAINTIFF, COMPLETE THE NEXT SECTION. IF ALL OF THE FINDINGS ARE IN FAVOR OF DEFENDANT FONG OR DEFENDANT WESSELS, THE FOREPERSON SHALL SIGN AND DATE THE VERDICT FORM BELOW AND TAKE NO FURTHER ACTION.

Compensatory Damages

What amount, if any, do you award for each of the following items of damages, as compensatory damages, as explained in Final Jury Instruction 31?

Past Physical Pain and Suffering:	\$ <u>25,000</u>
Future Physical Pain and Suffering:	\$ <u>0</u>
Past Mental and Emotional Pain and Suffering:	\$ <u>75,000</u>
Future Mental and Emotional Pain and Suffering:	\$ <u>20,000</u>
Past Medical Expenses:	\$ <u>2,000</u>
Future Dental and Medical Expenses:	\$ <u>3,000</u>
Past Economic Losses:	\$ <u>75,000</u>
Future Economic Losses:	\$ <u>0</u>

Nominal Damages

If you found in favor of Plaintiff Dustin Burnikel on his excessive force claim in Verdict No. 1 or Verdict No. 2 above, or on his Fourth Amendment false arrest claim in Verdict No. 5 or Verdict No. 6 above, but you found he has failed to prove "compensatory damages" as defined in Final Jury Instruction 31, then you must award "nominal damages" not exceeding \$1.00, as explained in Instruction 35. Do not award "nominal damages" if you award any "compensatory damages." Do not award "nominal damages" if you did not find in favor of Plaintiff Dustin Burnikel in Verdict Nos. 1, 2, 5, or 6.

Nominal Damages:

\$ _____

AFTER COMPLETING THE VERDICT FORM, THE FOREPERSON SHALL SIGN AND DATE THE FORM AND NOTIFY THE COURT THE VERDICT FORM IS COMPLETE.

11-20-2018

DATE


FOREPERSON